

Exhibit D

Chloe Davis

From: Justin J. Sullivan <JJ.Sullivan@riag.ri.gov>
Sent: Wednesday, November 06, 2019 8:30 AM
To: Chloe Davis
Cc: Lauren Hill; Jeff Latham
Subject: Melise v. A.T. Wall (1:17-cv-00490)

Chloe:

I received the documents DOC sent over on Friday. I can get responses out to you within the next 10 days (on or before 11/15/2019). Let me know if that is agreeable to you. I'm happy to discuss more before the conference with Judge McElroy today.



Justin J. Sullivan
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From: [Nisshy Urizandi](#)
To: [Chloe Davis](#)
Cc: [Justin J. Sullivan \(JJ.Sullivan@riag.ri.gov\)](#); [Lauren Hill \(LHill@riag.ri.gov\)](#); [Anthony Sinapi](#); [Jeff Latham \(jlatham@tatelawri.com\)](#)
Subject: RE: Melise v. RIDOC
Date: Monday, October 28, 2019 5:02:00 PM

Judge McElroy would like to have a discovery dispute conference. A notice of hearing will be sent out tomorrow with the date and time. Thank you.

Nisshy D. Urizandi
Case Manager to Judge Mary S. McElroy
United States District Court
District of Rhode Island
One Exchange Terrace
Providence, RI 02903
Direct: 401-752-7214
Fax: 401-752-7247

From: Chloe Davis <cad@sinapilaw.com>
Sent: Monday, October 28, 2019 4:47 PM
To: Nisshy Urizandi <Nisshy_Urizandi@RID.USCOURTS.GOV>
Cc: Justin J. Sullivan (JJ.Sullivan@riag.ri.gov) <JJ.Sullivan@riag.ri.gov>; Lauren Hill (LHill@riag.ri.gov) <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>; Jeff Latham (jlatham@tatelawri.com) <jlatham@tatelawri.com>
Subject: Melise v. RIDOC

Nisshy,

I would like to request a conference with Judge McElroy to discuss some outstanding discovery disputes in Melise v. Coyne-Fague et al, 17-cv-490, which was recently transferred to her calendar. I'm not sure if Judge McElroy has adopted the same standard order as Judge Smith and Judge McConnell regarding conferences prior to discovery motions, but I figured I might as well ask.

In this case, we deposed one of the named defendants, Kerri McCaughey, on July 12th of this year. During that deposition, numerous documents were identified. I sent an email to opposing counsel on July 17th requesting that the DOC produced those documents. I additionally followed it up with a 2nd Request for Production of Documents to the DOC on July 29th. Those documents were due at the end of August. I have been quite understanding and lenient about allowing more time, but I still have not received any responses from the DOC. I requested to receive the DOC's responses by October 18th at the latest in order to review them by the factual discovery deadline of October 30th. At this point, the DOC's counsel in the AG's Office, Mr. Sullivan, has indicated that he has not heard back from his client and does not know when I will receive a response.

Therefore, I request a conference with Judge McElroy to discuss the DOC's refusal to comply with discovery requests and the need for an appropriate extension of discovery deadlines that is now

necessary.

Thank you,

Chloe A. Davis | Associate
SINAPI LAW ASSOCIATES, LTD.
2374 Post Road, Suite 201
Warwick, RI 02886
Phone: [\(401\) 739-9690](tel:(401)739-9690)
FAX: [\(401\) 739-9040](tel:(401)739-9040)
Email: cad@sinapilaw.com

=====

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=====

From: [Justin J. Sullivan](#)
To: [Chloe Davis](#)
Cc: [Lauren Hill](#); [Anthony Sinapi](#); [Jeff Latham](#)
Subject: RE: Melise v. RIDOC
Date: Friday, October 25, 2019 4:42:45 PM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image001.png](#)

Chloe:

To give you a quick update: unfortunately, I have not yet heard back from RIDOC. I will follow up with them again on Monday and see if I can narrow down a timeframe, so we can discuss how long of an extension will be needed. Thank you again for your continued patience.

Have a good weekend,
Justin



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From: Chloe Davis <cad@sinapilaw.com>
Sent: Tuesday, October 22, 2019 11:59 AM
To: Justin J. Sullivan <JJ.Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>; Jeff Latham <jlatham@tatelawri.com>
Subject: RE: Melise v. RIDOC

[External email: Use caution with links and attachments]

Justin,

Thank you for your response. Although I'm unclear about what exactly you would consider "promptly," even if I were to receive the documents today, I simply don't think that will be enough time for me to review the documents and discuss what I think is a high likelihood that there will be some dispute about what is provided. Therefore, I expect that an extension will be needed in any case.

I'm willing to give you a day or two to hear back from the DOC before determining exactly how long of an extension will be required. Please let me know as soon as you have more information.

Thank you,

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From: Justin J. Sullivan [mailto:JJ Sullivan@riag.ri.gov]
Sent: Tuesday, October 22, 2019 11:34 AM
To: Chloe Davis
Cc: Lauren Hill; Anthony Sinapi; Jeff Latham
Subject: RE: Melise v. RIDOC

Chloe:

I just got back to the office and saw your missed call. I do appreciate your patience and understanding, as I am sure the delay in discovery is frustrating for you as well. I reached out to the Chief of DOC Legal yesterday to find out what the holdup is and she is looking into it, so I am waiting to hear back. If for some reason DOC cannot get the responsive documents to me promptly, I will file an extension with the court. Again, I do very much appreciate your patience and I apologize for the delay. I should be in the office the remainder of the day today if you want to discuss.

Thank you,

Justin



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From: Chloe Davis <cad@sinapilaw.com>
Sent: Tuesday, October 22, 2019 10:38 AM
To: Justin J. Sullivan <JJ Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>; Jeff Latham <jlatham@tatelawri.com>
Subject: RE: Melise v. RIDOC

[External email: Use caution with links and attachments]

Good morning, Justin,

I haven't received any discovery responses or even a response from you about the below email. If I still haven't heard from you by noon today, I will request a conference with Judge McElroy.

Thank you,

Chloe A. Davis
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=====

From: Chloe Davis
Sent: Thursday, October 10, 2019 5:31 PM
To: 'Justin J. Sullivan'
Cc: Lauren Hill; Anthony Sinapi; Jeff Latham
Subject: RE: Melise v. RIDOC

Justin,

I cannot agree to wait until the end of this month to receive those documents. Defendant McCaughey was deposed on July 12th, when many of the documents at issue were identified. I sent you an email on July 17th requesting that the DOC produced those documents. I additionally followed it up with a 2nd Request for Production of Documents to the DOC on July 29th. Those documents were due at the end of August. I believe I have been fairly understanding and lenient about allowing more time, but at this point, I need to have time to review those documents before our factual discovery deadline, which is the end of this month. I understand that your client may be difficult, but the DOC's in-house legal team is still bound by discovery deadlines. I need to receive the DOC's responses by October 18th at the latest. Otherwise, I think you need to file a request for an extension with the court.

[REDACTED]

[REDACTED]

Thank you,

Chloe A. Davis
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From: Justin J. Sullivan [<mailto:JJ Sullivan@riag.ri.gov>]
Sent: Thursday, October 10, 2019 5:05 PM
To: Chloe Davis
Cc: Lauren Hill; Anthony Sinapi; Jeff Latham
Subject: RE: Melise v. RIDOC

Chloe:

I spoke with DOC legal again this afternoon and I should be receiving any remaining responsive documents by Wednesday next week. I anticipate having responses served to you by the end of the month. Thank you for your continued patience.

[REDACTED]

[REDACTED]

[REDACTED]

Thanks again,

—Justin



Justin J. Sullivan
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From: Chloe Davis <cad@sinapilaw.com>
Sent: Tuesday, October 08, 2019 9:39 AM
To: Justin J. Sullivan <JJ Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>
Subject: RE: Melise v. RIDOC

[External email: Use caution with links and attachments]

Good morning, Justin:

Can you please give me an update for when I can expect to receive documents from DOC?

Thank you,

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From: Justin J. Sullivan [mailto:JJ Sullivan@riag.ri.gov]
Sent: Wednesday, September 11, 2019 12:13 PM
To: Chloe Davis
Cc: Lauren Hill; Anthony Sinapi
Subject: RE: Melise v. RIDOC

Chloe:

I hope to receive documents from DOC within the next few days and anticipate that we'll have responses ready by the end of the month. I'm happy to discuss if you think the fact discovery deadline needs to be extended in light of the foregoing. Let me know your thoughts.

Thank you,
—Justin



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From: Chloe Davis <cad@sinapilaw.com>
Sent: Friday, September 06, 2019 11:15 AM
To: Justin J. Sullivan <JJ.Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>
Subject: RE: Melise v. RIDOC

[External email: Use caution with links and attachments]

Justin,

Realizing that the DOC's responses to my discovery requests were due August 26th, when do you think you will have a response ready, including the supplemental responses?

Thank you,

Chloe A. Davis
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From: Justin J. Sullivan [mailto:JJ.Sullivan@riag.ri.gov]
Sent: Monday, August 19, 2019 2:50 PM
To: Chloe Davis
Cc: Lauren Hill; Anthony Sinapi; Jeff Latham
Subject: RE: Melise v. RIDOC

Chloe:

I forwarded your supplemental request and second RFP and DOC is in the process of reviewing, but needs a few weeks to identify any potentially responsive documents. I anticipate that we will need some time to review and respond as well, especially with respect to the second RFP, as some of the requests may implicate HIPPA and state privacy laws. Please feel free to give me a call should you want to discuss, I should be in the office most of the week.

Thanks,
Justin



Justin J. Sullivan
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From: Chloe Davis <cad@sinapilaw.com>
Sent: Thursday, August 15, 2019 4:00 PM
To: Justin J. Sullivan <JJ.Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>
Subject: RE: Melise v. RIDOC

[External email: Use caution with links and attachments]

Justin,

I haven't heard from you in regard to the documents that we believe are owed in regard to Plaintiff's first Request for Production. Can you give me an estimate of when we can expect to receive a response?

If I don't hear anything by August 26th, I will contact the judge about those requests.

Thank you!

Chloe A. Davis
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=====

From: Chloe Davis
Sent: Monday, July 29, 2019 4:05 PM
To: 'Justin J. Sullivan'
Cc: Lauren Hill; Anthony Sinapi
Subject: RE: Melise v. RIDOC

Justin,

Please find attached Plaintiff's Second RFPD to the DOC. Many of these records requests are in response to testimony from the Deputy Warden during her deposition and are for records that we do not believe fall within an existing records request.

However, the documents that we requested in my email dated July 17th are documents that fall squarely within an existing

request, each of which was identified. The DOC has a continuing obligation to supplement its responses to those requests in regard to specific documents that have been identified but were not previously produced. Therefore, the Federal Rules of Civil Procedure do not require that I submit a "formal supplemental request." At most, they require that we confer, and I have gone a step further in submitting a written explanation of the documentation that we believe to be outstanding. If you have objections to the request for those documents, please feel free to respond in an email with your objections.

To reiterate, here are the documents that we contend the DOC owes a continuing obligation to produce:

- RFPD #11: RIDOC stated in its Supplemental Response dated February 21, 2019 that it was reviewing email correspondence sent to and from named Defendants that mentioned Plaintiff by name and that it would supplement its response. We have not received any additional documents. Please provide those documents.
- RFPD #16 and 18: the RIDOC responded to these requests that there were no Facility specific policies for the DOC Medium Security Facility between August 1, 2013 and December 30, 2016. However, McCaughey testified that the Medium Security Facility has no 3rd Shift medical staff, so presumably there must be some policies that provide procedures for correctional staff on what to do in the event of a medical incident during 3rd Shift. Please supplement RIDOC's response.
- RFPD #36: RIDOC objected to this request for training and orientation materials for DOC employees. In the interest of cooperation, we would like to narrow this request to training and orientation materials for either correctional or medical staff related to the Americans with Disabilities Act, including the 2008 Amendments, special needs accommodations, and bunk assignments.

I'm happy to further discuss these discovery issues with you at any time. Thank you!

Chloe A. Davis
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From: Justin J. Sullivan [<mailto:JJ Sullivan@riag.ri.gov>]
Sent: Wednesday, July 24, 2019 9:09 AM
To: Chloe Davis
Cc: Lauren Hill; Anthony Sinapi
Subject: RE: Melise v. RIDOC

Chloe:

Attached please find the confidential RIDOC policies that are subject to the protective order that was entered last week, as well as a copy of the protective order. Please let me know if you have any difficulty opening the files or if you prefer hard copies of the documents.

Thanks,

Justin

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From: Justin J. Sullivan
Sent: Friday, July 19, 2019 4:22 PM
To: Chloe Davis <cad@sinapilaw.com>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>
Subject: RE: Melise v. RIDOC

Chloe:

Attached please find a copy of the Medical Special Needs Approval form that Deputy Warden McCaughey mentioned at her deposition.

Additionally, as the Court entered the protective order and stipulation, I'll send you over the confidential DOC policies identified in RIDOC's supplemental responses. I'm just waiting to receive them from DOC. Let me know if email is fine or if you prefer hard copies.

As for the "discovery issues" you reference below, please draft a formal supplemental request for production if you're seeking additional documents. That way we can comply with the Federal Rules and it gives us a chance a chance to object if we need to. Identifying specific documents in the requests may help speed up the process as well.

I'm out of the office on Monday, but I'll be periodically checking email. Feel free to email me or give me a call next week if you want to discuss anything before Dr. Salas' deposition.

Thanks,

Justin



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From: Chloe Davis <cad@sinapilaw.com>
Sent: Wednesday, July 17, 2019 4:46 PM
To: Justin J. Sullivan <JJ Sullivan@riag.ri.gov>
Cc: Lauren Hill <LHill@riag.ri.gov>; Anthony Sinapi <aes@sinapilaw.com>
Subject: Melise v. RIDOC

[External email: Use caution with links and attachments]

Justin,

As we discussed earlier today, there are several discovery issues still outstanding. Here is a list of the items that we believe need to be supplemented:

- RFPD #1 and 2: This requested all medical records. In McCaughey's Response to RFA #29, she referred to a special needs accommodation request that was sent back "inquiring as to why there wasn't an incident report." We would like the document that was the basis for this response.
- RFPD #11: RIDOC stated in its Supplemental Response dated February 21, 2019 that it was reviewing email correspondence sent to and from named Defendants that mentioned Plaintiff by name and that it would supplement its response. We have not received any additional documents. Please provide those documents.
 - Additionally, there are documents from the incident on November 11, 2016 that were not provided, including intake logbooks that would have mentioned Plaintiff by name, the operations desk blotter, the blotter in any other area of the facility that would have been visited by Plaintiff, and any other documents contained in the Daily Packet that would have documented Plaintiff's incident and trip to Rhode Island Hospital.
- RFPD #16 and 18: the RIDOC responded to these requests that there were no Facility specific policies for the DOC Medium Security Facility between August 1, 2013 and December 30, 2016. However, McCaughey testified that the Medium Security Facility has no 3rd Shift medical staff, so presumably there must be some policies that provide procedures for correctional staff on what to do in the event of a medical incident during 3rd Shift. Please supplement RIDOC's response.
- RFPD #29 and 30: RIDOC identified several policies that could only be provided subject to the entry of a protective order, which was filed with the Court today.
- RFPD #36: RIDOC objected to this request for training and orientation materials for DOC employees. In the interest of cooperation, we would like to narrow this request to training and orientation materials for either correctional or medical staff related to the Americans with Disabilities Act, including the 2008 Amendments, special needs accommodations, and bunk assignments.

Also as we discussed, we will be sending additional discovery requests to the RIDOC, including additional requests for documents and likely RFAs.

Please let me know how quickly you might be able to produce the above referenced documents. I would be happy you speak with you again if you have any questions about the above issues.

Thank you.

Chloe A. Davis
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